

1 JUDGE MILLER: Oh, it doesn't bother you that over
2 on the left-hand column, under Committee Members, we see
3 Shellee Davis' name?

4 MS. CONNER: It -- actually that, that is what
5 bothers me, Your Honor. She could have signed it as a
6 committee member, not as President of Britt Business Systems.
7 Obviously there was some intention to promote the business.

8 JUDGE MILLER: Your objection's overruled.

9 MS. CONNER: Thank you, Your Honor.

10 JUDGE MILLER: Anything further?

11 MS. CONNER: Nothing further, Your Honor, from me.

12 JUDGE MILLER: Davis Exhibit 1 is received, subject
13 to the many, many rulings I've made.

14 (Whereupon, the document referred to
15 as Davis Exhibit No. 1 was received
16 into evidence.)

17 MR. ALPERT: Thank you, Your Honor. At this time, I
18 hope it goes quicker, I'd like to move into evidence Exhibit
19 No. 2, which is a document -- one-page document entitled
20 Auxiliary Power with a one-page declaration attached to it.

21 JUDGE MILLER: Mr. Yelverton?

22 MR. YELVERTON: No objection, Your Honor. There,
23 there were entries to the cost estimates --

24 JUDGE MILLER: Mr. Belendiuk?

25 MR. BELENDIUK: No objections.

1 JUDGE MILLER: Mr. Koerner?

2 MR. KOERNER: No objection, Your Honor.

3 MR. YELVERTON: Basically, Your Honor, just virtue
4 of that --

5 JUDGE MILLER: Ms. Conners?

6 MS. CONNER: No objection, Your Honor.

7 JUDGE MILLER: Exhibit -- Davis Exhibit No. 2 is
8 received.

9 (Whereupon, the document referred to
10 as Davis Exhibit No. 2 was received
11 into evidence.)

12 JUDGE MILLER: Does that complete your evidentiary
13 submission, Mr. Alpert?

14 MR. ALPERT: It completes my direct case evidentiary
15 submission, Your Honor.

16 JUDGE MILLER: All right. And next we come to Ohio
17 Radio Associates, Inc.

18 MR. YELVERTON: Thank you, Your Honor. I'm handing
19 the Court Reporter an original and one copy of what's entitled
20 Hearing Exhibits of Ohio Radio Associates, Incorporated. Your
21 Honor, I'd like to mark for identification what's entitled ORA
22 Exhibit 1, which --

23 JUDGE MILLER: First of all, before we, before we --
24 no, go ahead. Finish the identification --

25 MR. YELVERTON: Okay.

1 JUDGE MILLER: -- because -- and then get the
2 problem that I brought up with you on the phone --

3 MR. YELVERTON: Okay. Certainly, Your Honor.
4 Exhibit 1 consists of one page captioned Standard Comparative
5 Issue with subcaptions Ownership Structure, Integration,
6 Diversification, Auxiliary Power. It's accompanied by two
7 declarations, one of Joseph D. Carney, Secretary of Ohio Radio
8 Associates, Incorporated, and another declaration of John M.
9 Mino, Assistant Secretary. And purpose for putting in two
10 declarations, our primary sponsoring witness, Mr. Carney, may
11 not be able to be here on Friday --

12 JUDGE MILLER: Assuming it's Friday.

13 MR. YELVERTON: Yeah.

14 JUDGE MILLER: We, we, we don't know.

15 MR. YELVERTON: He has a two-year-old son who's
16 going into major surgery on Friday of the first week of the
17 hearing, which I think is September the 4th, 3rd or 4th, but
18 he, he cannot be here that day. In the event that Ohio Radio
19 Associates' case comes up for cross-examination on that date,
20 Mr. Mino would be available.

21 JUDGE MILLER: Now, I, I saw this and I made a call,
22 so that we're not guilty of any ex parte activity here. I
23 made a call to Mr. Yelverton to, to, to say -- to have this
24 thing cleared up when he came in here because I didn't want to
25 face dual nullifications.

1 In other words, if there's nullification, assuming
2 that there's nullification, and that's -- I don't know that
3 there will be, you, you've got to understand that you're,
4 you're getting one or the other. And it'll depend on when we
5 get to Mr. Yelverton's case which one of those two will
6 appear.

7 The, the primary person he'd like to bring is Joseph
8 D. Carney, but if it's, if it's -- who is the secretary --

9 MR. YELVERTON: And the most knowledgeable person
10 about the application.

11 JUDGE MILLER: Yeah. And -- but if, if because of,
12 of personal circumstances he can't be here, Mr., Mr. Mino will
13 be here and will take the responsibility for the information
14 contained in Exhibit 1. That's the way it's --

15 MR. YELVERTON: Yes.

16 JUDGE MILLER: -- you've -- it's going to be set up.
17 All right. That -- the -- Exhibit 1 has been identified --
18 the material is identified as Ohio Radio Associates Exhibit 1.

19 (Whereupon, the document referred to
20 as Ohio Radio Associates Exhibit No.
21 1 was marked for identification.)

22 JUDGE MILLER: Do you offer it in evidence?

23 MR. YELVERTON: Yes, Your Honor. The exhibit is
24 offered into evidence.

25 JUDGE MILLER: Mr. Belendiuk?

1 MR. BELENDIUK: No objections, Your Honor.

2 JUDGE MILLER: Mr. Koerner?

3 MR. KOERNER: No objection, Your Honor.

4 JUDGE MILLER: Ms. Conners?

5 MS. CONNER: No objection, Your Honor.

6 JUDGE MILLER: Mr. Alpert?

7 MR. ALPERT: No objection, Your Honor.

8 JUDGE MILLER: Ohio Radio Associates Exhibit No. 1
9 is received.

10 (Whereupon, the document referred to
11 as Ohio Radio Associates Exhibit No.
12 1 was received into evidence.)

13 JUDGE MILLER: Does that complete your evidentiary
14 submission, Mr. Yelverton?

15 MR. YELVERTON: Yes, Your Honor.

16 JUDGE MILLER: All right. All right. We have --
17 we're now moving, for those who have not been in a hearing
18 room lately, directly to witness notification. We have a
19 potential five to seven witnesses that will be needed for
20 cross-examination and we're going to proceed to get this
21 notification out of the way now. Now, I'm going to call out
22 the names of the various applicants and the direct case
23 exhibits that have been submitted and we'll find out who wants
24 to cross-examine them.

25 Now, when we get to that applicant, where you have

1 something above and beyond the call of duty, that is you --
2 that is the time when you want to bring it up. That's clear
3 to you isn't it, Mr. Koerner, what I'm saying?

4 MR. KOERNER: Yes, Your Honor.

5 JUDGE MILLER: Okay. I -- it's a little -- Mr.
6 Alpert?

7 MR. ALPERT: Well, I'm not entirely sure. You mean
8 if we -- if there are additional people for that applicant
9 that we wish to call --

10 JUDGE MILLER: That's it -- if you want an -- a
11 member of that organization that has not sponsored a direct
12 case --

13 MR. ALPERT: I see --

14 JUDGE MILLER: -- then's your chance.

15 MR. ALPERT: Okay.

16 JUDGE MILLER: I didn't want to -- I don't want to
17 be guilty of, of what Ms. Frizzell testified to and what Ms.
18 Davis did when she had -- but I, I assumed that we weren't
19 going to get by with just five people. Or at least an effort.
20 And with that, Mr. Belendiuk, I'm going to ask you -- well,
21 first of all, let's take witness one, David Ringer. Do you
22 have cross-examination of David Ringer, Mr. Koerner?

23 MR. KOERNER: Yes, Your Honor.

24 JUDGE MILLER: Ms. Conners?

25 MS. CONNER: Yes, Your Honor.

1 JUDGE MILLER: Mr. Alpert?

2 MR. ALPERT: Yes, Your Honor.

3 JUDGE MILLER: Mr. Yelverton?

4 MR. YELVERTON: Yes, Your Honor.

5 JUDGE MILLER: Now, did we -- are you telling me
6 that we're going to need -- you're going to need all four of
7 you people? All right. I, I --

8 MR. YELVERTON: Your Honor, I think we could easily
9 divvy up responsibility and, and have a primary --

10 JUDGE MILLER: Well, I thought that was done
11 beforehand, Mr. Yelverton. Not -- that's the reason I called
12 Koerner first. It thought Koerner was lead man. Am I, am I
13 wrong?

14 MR. YELVERTON: Your Honor, we, we divvied up
15 responsibility. I don't think it was necessarily docket order
16 where you had -- one applicant had responsibility to one below
17 them. We, we did it on a different basis, but --

18 JUDGE MILLER: The one above them?

19 MR. YELVERTON: I --

20 MR. KOERNER: It wasn't done that way, Your Honor.

21 JUDGE MILLER: It wasn't done that way.

22 MR. KOERNER: I believe the depositions for the
23 depositions of Mr. Ringer, Mr. Yelverton was the lead counsel
24 and I was backup.

25 MR. YELVERTON: Yes.

1 MR. KOERNER: I was lead counsel at depositions of
2 Wilburn Industries --

3 JUDGE MILLER: All right. Wait -- all right. Now,
4 on cross-examination if I put a little one above you, Mr.
5 Yelverton, I'd be calling on you to lead off.

6 MR. YELVERTON: Yeah. I'll take responsibility
7 for --

8 JUDGE MILLER: And then I'll call on you Mr.
9 Koerner?

10 MR. KOERNER: That's fine.

11 JUDGE MILLER: Who wants to be third?

12 MR. ALPERT: Well, Your Honor, in light of what we
13 did during depositions -- in fact, I did not even participate
14 in directing the depositions for the very reason that we
15 divvied up your responsibility. If they do the job which I
16 expect everybody to be able to do, I suspect that I will not
17 actually asking any questions. But I'm reserving my rights
18 just in the event something catastrophic happens, they aren't
19 functioning that day, or something like that.

20 JUDGE MILLER: Okay. Okay.

21 MR. ALPERT: Because I want to make sure I don't
22 lose my rights, but --

23 JUDGE MILLER: Okay.

24 MR. ALPERT: -- I can go either third or fourth.

25 JUDGE MILLER: All right. You're third. Ms.

1 Conners, you -- and you'll be fourth. Is your position the
2 same as Mr. Alpert's?

3 MS. CONNER: It is, Your Honor.

4 JUDGE MILLER: All right. Next, witness number two,
5 Ardeth Frizzell. Who was the -- who bore the laboring oar?
6 Ms. Con--

7 MR. KOERNER: Mr. Kravetz and Mr. Alpert.

8 JUDGE MILLER: Ms. Conners, do you have -- will you
9 have cross-examination for Ardeth Frizzell?

10 MS. CONNER: Yes, sir, we will.

11 JUDGE MILLER: And Mr. Alpert?

12 MR. ALPERT: I also will. And, Your Honor, I'd also
13 like to have Mr. --

14 JUDGE MILLER: Wait, wait, wait.

15 MR. ALPERT: Yes, sir.

16 JUDGE MILLER: Wait, wait, wait, wait, wait until we
17 finish the witness. Don't jump the gun. Mr. Yelverton, are
18 you going to have any cross?

19 MR. YELVERTON: Yes. Assuming that the primary and
20 lead fully cross-examine Ms. Frizzell and I wouldn't have
21 anything, I'd like to reserve my right --

22 JUDGE MILLER: Mr. Belendiuk?

23 MR. BELENDIUK: Your Honor, I -- my, my view of --
24 I, I have one witness that I want to call. It's not Mr. --

25 JUDGE MILLER: Well, wait a minute. Do, do you want

1 to cross-examine --

2 MR. BELENDIUK: I've been trying to answer that
3 question.

4 JUDGE MILLER: Oh, okay.

5 MR. BELENDIUK: The answer is no with the caveat
6 that unless someone, for example the lead attorney, drops out
7 and I, and I get chosen as lead. But, but my plan is I --
8 assuming that the first two attorneys are present and doing
9 their job then no, I do not want to cross-examine.

10 JUDGE MILLER: Well, I'm going to put you down as
11 you want to cross-examine. That protects you in this, in this
12 -- in the event that something happens to the lead -- the two
13 leads. You're protected. But, but the record does reflect
14 that you, in all probability, you have no cross-examination --

15 MR. BELENDIUK: That's right.

16 JUDGE MILLER: -- but you're just protecting your
17 shoulder blades.

18 MR. BELENDIUK: Thank you.

19 JUDGE MILLER: All right. Now, does anybody have
20 any other witness notifications for ASF? Mr. Alpert?

21 MR. ALPERT: Yes. I would like to call Mr. Thomas
22 J. Beauvais, who is the non-voting stockholder in ASF. He
23 owns 75 percent of the equity, I believe, and he has given
24 testimony in this case in depositions. I would like to have
25 the opportunity to ask him some further questions for the

1 record in this hearing.

2 JUDGE MILLER: Ms. Conners?

3 MS. CONNER: Wilburn Industries -- and Mr. Alpert's
4 request.

5 JUDGE MILLER: Mr. Yelverton?

6 MR. YELVERTON: Yes, we join in the request and we'd
7 like to cross-examine Mr. Beauvais.

8 JUDGE MILLER: And Mr. Belendiuk?

9 MR. BELENDIUK: Same, only, only if the other
10 counsel do not -- drop out or are not able to participate.

11 JUDGE MILLER: Do you object to having Mr. Thomas J.
12 Beauvais made available, Mr. Koerner?

13 MR. KOERNER: For the record, I do, Your Honor. He
14 holds non-voting stock, he is not sponsoring any of the
15 exhibits, he is not proposed to be integrated into the
16 operation of the station, and for those reasons I do object.

17 JUDGE MILLER: Mr. Alpert, what is it in those
18 depositions that you feel the Commission ought to, ought to
19 know about?

20 MR. ALPERT: Well, most specifically, Your Honor, is
21 that, you know -- they own a tremendous amount of the equity
22 in this organization.

23 JUDGE MILLER: I understand that.

24 MR. ALPERT: Additionally, under the corporate
25 document, there is some indication that he has some ability to

1 participate in meetings and that sort of thing, which might
2 belie his purported passive status in this proceeding. In
3 addition --

4 JUDGE MILLER: In, in -- during the deposition, did
5 -- was -- were the facts developed on what his role is in
6 other holdings?

7 MR. ALPERT: Other broadcast holdings?

8 JUDGE MILLER: Yeah.

9 MR. ALPERT: Yes. I believe it was.

10 JUDGE MILLER: In other words, what, what his role
11 is in, I don't know, in Grand Rapids, Michigan, or wherever
12 that place -- the one place and -- the other place, I think,
13 was somewhere in Ohio.

14 MR. ALPERT: Yeah, in fact, in the case of the Ohio
15 one, in particular, Your Honor, there is a connection actually
16 between that application and this application insofar that
17 there is testimony that a friend of Ms. Frizzell's was the
18 person who brought them together and therefore he can testify
19 to his relationship with that person and Ms. Frizzell can, in
20 turn, give testimony concerning her relationship which would
21 then tie in together all of the -- basically how the whole
22 application came together and how he has operated in the past.

23 JUDGE MILLER: Now, I think, just get in back here.
24 Let me be a little more specific with you. Was -- were there
25 questions about whether he was active or passive in the FM

1 station in Trussville, Alabama, made a subject of the
2 deposition?

3 MR. ALPERT: In that -- with that particular
4 station, I do not recall one way or the other. I am not
5 certain from recollection right at this moment.

6 JUDGE MILLER: Is it, is it -- his 50 percent
7 ownership in GT Leasing active or passive?

8 MR. ALPERT: I believe it's passive, but I am not
9 certain from direct recollection right now.

10 JUDGE MILLER: Make Beauvais available.

11 MR. KOERNER: Yes, Your Honor.

12 JUDGE MILLER: With -- so we have so far
13 notifications on Ringer, Frizzell, and Thomas J. Beauvais.
14 Now we come to Mr. Charles W. Wilburn.

15 MR. YELVERTON: Your Honor, before we go to Mr.
16 Wilburn I'd like to make a request. Ohio Radio Associates did
17 not participate in the deposition of ASF and this is based on
18 a reading of the deposition in the past few days. We would
19 like to request cross-examination on Joanne Adams who,
20 according to the depositions, provided extensive assistance to
21 Ms. Frizzell in preparing the application.

22 Ms. Adams was previously an applicant for an FM
23 station in Delaware, Ohio. Mr. Beauvais was the purported
24 non-voting stockholder. Everything was done, at least
25 according to the deposition, essentially the same in

1 Westerville as in Delaware, Ohio. The depositions further
2 indicate that after grant of the construction permit for
3 Delaware, Ms. Adams very quickly sold her interest purportedly
4 because of a heart operation, which while certainly at the
5 time that may have been a temporary incapacity, but as Your
6 Honor can attest, that's not necessarily a permanent
7 incapacity.

8 JUDGE MILLER: Time will tell.

9 MR. YELVERTON: And we certainly -- I think the
10 circumstances of Ms. Adams' previous involvement and Mr.
11 Beauvais, her grant of a construction permit, immediate sale,
12 her extensive involvement with Ms. Frizzell raises some
13 questions that should be answered on, on the record.

14 JUDGE MILLER: Before I hear from you, Mr. Koerner,
15 anybody else want, want to be heard on this, on this request?

16 MR. ALPERT: Only, Your Honor, that I was at the
17 deposition and I believe that Mr. Yelverton is correctly
18 characterizing the testimony. She --

19 JUDGE MILLER: But you intended to handle this
20 matter through Beauvais, didn't you?

21 MR. ALPERT: I would -- I could possibly handle part
22 of it through Mr. Beauvais. Now, whether or not he'll --
23 personal life concerning why she, if she was in charge of the
24 station, sold the station, Mr. Beauvais may or may not know
25 those facts.

1 JUDGE MILLER: Now, Mr. Yelverton, am I correct in
2 assuming that, when I turn to Mr. Koerner, Mr. Koerner's going
3 to say she's not a member of our organization, I have no
4 responsibility for her.

5 MR. YELVERTON: Your Honor --

6 JUDGE MILLER: And, and, and, you know, that's,
7 that's pretty powerful language.

8 MR. YELVERTON: Your Honor, in that -- anticipating
9 that response, you know, we would also request a subpoena of,
10 of Ms. Adams.

11 JUDGE MILLER: Well, I, I'm wondering if whether
12 you, whether, whether you aren't talking about an adverse
13 witness that you want to call? That's, that's what I'm
14 getting down to.

15 MR. YELVERTON: Well, certainly, it's someone, you
16 know, we, we could request a subpoena at the appropriate time,
17 but I thought it was --

18 JUDGE MILLER: No, no, no, what we're doing now --
19 this is witness notification of, of, of each of the
20 applicants. Now -- and you have made a notification, which,
21 which has as its underpinnings or at least as a premise, that,
22 that Koerner's responsible for this person.

23 MR. YELVERTON: Well, you're, you're absolutely
24 right, Your Honor, and, and maybe I was getting ahead of
25 myself and this is someone we should subpoena as a rebuttal,

1 | adverse witness, whatever.

2 | JUDGE MILLER: Well, now, you, you know a little bit
3 | about rebuttal and how I treat it, don't you?

4 | MR. YELVERTON: Yes, Your Honor.

5 | JUDGE MILLER: You know that I -- that as far as I'm
6 | concerned rebuttal is not a matter of right, but if during the
7 | course of the hearing matters develop that signify a need for
8 | rebuttal, the person who wants rebuttal can make, make the
9 | claim and if they make a convincing showing I will, I will
10 | allow it. So if you understand that -- Mr. Koerner?

11 | MR. KOERNER: Well, at the risk of being somewhat
12 | repetitious, Your Honor, you're absolutely correct. I am
13 | making the statement that Ms. Adams is not part of ASF
14 | Broadcasting Corporation, either as a stockholder, officer,
15 | director, employee, agent, or --

16 | JUDGE MILLER: And never has been.

17 | MR. KOERNER: -- anything else.

18 | JUDGE MILLER: And never has been.

19 | MR. KOERNER: Never has been. We have no control
20 | over her. There is -- Mr. Yelverton is correct that her name
21 | did come up in the deposition. As I recall, she is the one
22 | who got Ms. Frizzell and Mr. Beauvais together. Ms. Frizzell
23 | can certainly testify as to her relationship with Joanne Adams
24 | and what she knows about the Delaware, Ohio, case. Your Honor
25 | has already ordered Mr. Beauvais to appear and he can

1 certainly testify as to his previous relationship with Joanne
2 Adams.

3 JUDGE MILLER: Mr. Koerner, you've convinced me. I
4 will not honor any requests to have Joanne Adams here at the,
5 at the upcoming hearing, but I will grant a motion, Mr.
6 Yelverton seasonably made that Mr. Beauvais and Ms. Frizzell
7 -- what do you call them?

8 MR. YELVERTON: Sequestered?

9 JUDGE MILLER: Sequestered. So that you will be
10 able to explore the Frizzell/Adams relationship and the
11 Beauvais/Adams relationship in -- with, with the knowledge
12 that they're not -- they haven't been corroborating (sic). Do
13 you, do you so move?

14 MR. YELVERTON: Yes, Your Honor.

15 JUDGE MILLER: I don't Mr. Beauvais and, and Ms.
16 Frizzell to be talking about the relationship with Joanne
17 Adams. I think you ought to notify them to that effect.

18 MR. KOERNER: Yes, Your Honor.

19 JUDGE MILLER: You know, I'm not a great believer in
20 sequestration because it's awfully hard to enforce, but I'll
21 -- I'm going to give it the old college try in this instance.

22 MR. KOERNER: I believe it was pretty thoroughly
23 aired at the deposition, Your Honor.

24 JUDGE MILLER: Yeah. Well, I mean, well, that's,
25 that's one of the big reasons too that sequestration don't

1 mean much, because the first thing you have to ask them is did
2 you read the deposition. They say yeah, yeah, I read the
3 deposition. My lawyer gave me the deposition to read. Then
4 how do you separate what, what, what went on and what didn't
5 go on? Well, that's -- but in any event, the request for
6 Joanne Adams is rejected. But enough on the sequestration for
7 both Beauvais and Frizzell is, is honored. And that means
8 that when they come here to testify they'll also continue
9 their sequestration.

10 MR. KOERNER: I assume, Your Honor, once Ardeth
11 Frizzell has testified she may remain in the hearing room?

12 JUDGE MILLER: If, if, if, if you put Ardeth
13 Frizzell on first, yes. And if you put Beauvais on first,
14 Beauvais can stay later. Whatever turns you on.

15 MR. KOERNER: Thank you, Your Honor.

16 JUDGE MILLER: All right. Anything further, Mr.
17 Yelverton, on ASF?

18 MR. YELVERTON: No, Your Honor.

19 JUDGE MILLER: All right. Mr. Belendiuk, we -- are
20 you up to date?

21 MR. BELENDIUK: Yes.

22 JUDGE MILLER: Okay. Well, we -- can we move on now
23 to Wilburn Industries and Charles W. Wilburn? Who -- Mr.
24 Alpert?

25 MR. ALPERT: I did not.

1 MR. KOERNER: I did, Your Honor.
2 JUDGE MILLER: Huh?
3 MR. KOERNER: I did, Your Honor.
4 JUDGE MILLER: Do you have cross-examination for
5 Charles W. Wilburn?
6 MR. KOERNER: Yes, I do, Your Honor.
7 JUDGE MILLER: Who has -- who was the --
8 MR. KOERNER: I think it was, I think it was Mr.
9 Bagley, who is --
10 JUDGE MILLER: All right. Hearing none -- Mr., Mr.
11 Alpert, do you have cross-examination for Charles W. Wilburn?
12 MR. ALPERT: Yes, sir.
13 JUDGE MILLER: Mr. Yelverton?
14 MR. YELVERTON: Yes, Your Honor.
15 JUDGE MILLER: Mr. Belendiuk?
16 MR. BELENDIUK: No, Your Honor.
17 MR. KOERNER: Just for the record, Your Honor, I
18 will officially take on the number two position for Mr.
19 Wilburn.
20 JUDGE MILLER: All right. Does that complete the,
21 the witness notification for Wilburn Industries?
22 MR. YELVERTON: No, Your Honor. We'd like to
23 request Mr. Bernard Wilburn.
24 JUDGE MILLER: On what basis?
25 MR. YELVERTON: He's 50 percent stockholder and the

1 deposition testimony indicates that he may have had some
2 involvement in prosecution of the application after he
3 purportedly became non-voting.

4 MR. KOERNER: Your Honor?

5 JUDGE MILLER: What, what do you mean purportedly
6 became non-voting? Was he voting?

7 MR. YELVERTON: Yes. Originally, the application
8 was filed both Wilburns, as voting shareholders. There was a
9 -- an amendment of right, which was in, I think, in February
10 or March, where it went to a two-tier situation and deposition
11 testimony indicates Mr. Bernard Wilburn, the purported non-
12 voting at the time --

13 JUDGE MILLER: Has he been, has he been deposed?

14 MR. YELVERTON: He was deposed?

15 JUDGE MILLER: What's his, what's his profession?

16 MR. YELVERTON: He's an attorney, along with his --

17 JUDGE MILLER: With Wilburn and Wilburn?

18 MR. YELVERTON: Yes, the father and son, they have a
19 two-man law office and also there's a question as to whether
20 Charles Wilburn, the purported voting as to his divestiture of
21 the law firm of Mr. Bernard Wilburn, the son, purportedly
22 would be taking up the slack and so there's certainly some
23 questions in that area as to his ability to take up the slack
24 in the law practice if Charles Wilburn becomes full-time
25 general manager.

1 JUDGE MILLER: Was there any cross-examination into
2 the origin and reason for the appellation given to the
3 applicant, namely, Wilburn Industries, Inc.? Why it was, why
4 it wasn't Wilburn Broadcasting Company. Why it -- is there
5 any, is there any meaning or was there any questioning about
6 the word industries? Whether it was intended not only to be
7 broadcasting, but also whether they intended to buy McDonald
8 franchises or whatever turns you on in this modern day of
9 entrepreneurship? Was there any kind of questioning along
10 that line?

11 MR. YELVERTON: I don't recall, Your Honor. I
12 attended the deposition, but did not have primary or secondary
13 responsibility. I read the deposition last night. I don't
14 recall that question being asked.

15 JUDGE MILLER: See, I come from a small town and,
16 and lawyers in small towns --

17 MR. YELVERTON: Have their fingers in everything.

18 JUDGE MILLER: Almost -- they have to, they have to.
19 If they're going to, if they're going to pay for all that law
20 education, they got to get in the coal business and everything
21 -- sort of thing. All right. You want, you want Mr. Bernard
22 Wilburn and -- let's see. Who, who -- was it you, Mr. Alpert,
23 that -- you wanted him? Do you want him?

24 MR. ALPERT: Yeah, I would join in that, Your Honor.
25 I was waiting to clarify the fact that yes, he was indeed

1 originally a voting person in this organization before Your
2 Honor finally brought out that information. Yes, I would also
3 like to cross-examine him for the very reasons that Mr.
4 Yelverton --

5 JUDGE MILLER: Do we know how long Wilburn and
6 Wilburn has been in business? From the deposition?

7 MR. YELVERTON: I, I think that was a alluded to.
8 Bernard Wilburn, relatively young, I think in his 30s and he's
9 been practicing with his father, I assume, since law school.
10 That's my recollection of the deposition and the law firm
11 itself goes back before then.

12 JUDGE MILLER: Where do they live? Is that -- was
13 that brought out in the deposition?

14 MR. YELVERTON: Yes, it was, Your Honor.

15 JUDGE MILLER: Both of them?

16 MR. YELVERTON: Yes. Circleville, Ohio.

17 JUDGE MILLER: Both of them live in Circleville?
18 Mr. Belendiuk?

19 MR. BELENDIUK: No. I have no interest in calling
20 Mr. Wilburn?

21 JUDGE MILLER: Mr. Bernard Wilburn?

22 MR. BELENDIUK: Yes, that's correct.

23 JUDGE MILLER: You haven't got any interest in the
24 Wilburns at all, do you?

25 MR. BELENDIUK: That's correct.

1 JUDGE MILLER: All right. Mr. Koerner?

2 MR. KOERNER: Not necessarily, Your Honor.

3 JUDGE MILLER: That's a good legal answer. What
4 does it mean? Is it coming to --

5 MR. KOERNER: It means that I am not making a
6 request for Mr. Bernard Wilburn.

7 JUDGE MILLER: Okay. So we have two people, Mr.
8 Yelverton and Mr. Alpert. I will now hear from you -- I think
9 I will. Just a second. See if I have any other questions
10 here. Ms. Conners, I will hear from you.

11 MS. CONNER: Your Honor, the -- Mr. Bernard Wilburn
12 is a non-voting shareholder. He is the brother of the voting
13 shareholder. They have entered into an agreement --

14 JUDGE MILLER: He owns 50 percent of the equity?

15 MS. CONNER: That's true, Your Honor.

16 JUDGE MILLER: Okay.

17 MS. CONNER: They have entered into an agreement of
18 the shareholders which strictly limits the activities of Mr.
19 Bernard Wilburn and will not be participating. Mr. Charles
20 Wilburn can provide testimony on his activities and allow Your
21 Honor to get full information to proceed.

22 MR. ALPERT: Your Honor?

23 JUDGE MILLER: Yeah.

24 MR. ALPERT: I think Ms. Conner must have misspoke
25 because she mentioned brother. They're father and son.

1 MS. CONNER: I'm sorry. I did misspeak.

2 JUDGE MILLER: Better bring Bernard P. Wilburn.

3 MS. CONNER: Thank you, Your Honor.

4 JUDGE MILLER: I mean, when you, when you've got 50
5 percent equity, you've got, you've got a interrelated
6 background, and we might as well get it on the record and so
7 we, so we don't have a, have a remand. And we can get it out
8 of the way one way or the other. All right. Are we ready now
9 to move down to -- who wants to cross-examine Shellee Davis?
10 Mr. Yelverton?

11 MR. YELVERTON: Yes, Your Honor.

12 JUDGE MILLER: Are you prime?

13 MR. YELVERTON: I participated in --

14 MR. BELENDIUK: If I may?

15 MR. YELVERTON: Yes.

16 MR. BELENDIUK: Mr. Bagley was prime. I was present
17 for Shellee Davis, as was Ms., Ms. Conners --

18 MS. CONNER: Mr. Kravetz.

19 MR. BELENDIUK: -- Mr. Kravetz. Thank you. Sorry,
20 his name slipped my mind. Eric Kravetz was present. I think
21 Mr. Kravetz wants to take lead and I would like to take second
22 on that.

23 MR. YELVERTON: That's acceptable to Ohio Radio
24 Associates.

25 JUDGE MILLER: Is -- well, it may be that, that --

1 | you, you know where the buck may stop, Ms. Conners?

2 | MS. CONNER: Yes, sir, Your Honor.

3 | JUDGE MILLER: Okay. If Kravetz is still on
4 | vacation, you know --

5 | MS. CONNER: I'll be prepared, sir.

6 | JUDGE MILLER: Okay. But you'll -- I'm going to put
7 | Ms. Conners down as number one.

8 | MS. CONNER: Thank you, Your Honor.

9 | JUDGE MILLER: I'll put the law firm down as number
10 | one and if I end up with Robin Nietert or whoever, we'll see.
11 | Second is, is -- Mr. Belendiuk, you're second?

12 | MR. BELENDIUK: Yes, Your Honor.

13 | JUDGE MILLER: Okay. Mr. Yelverton?

14 | MR. YELVERTON: Cleanup.

15 | JUDGE MILLER: All right. You -- well, no.
16 | Cleanup's four.

17 | MR. YELVERTON: Okay, we take -- we'll stand third
18 | in line.

19 | JUDGE MILLER: Mr. Koerner.

20 | MR. KOERNER: If there are any questions left to
21 | ask, I'll take that.

22 | JUDGE MILLER: All right. We've, we've got four
23 | people there. Now, Ohio Radio. Carney or Mino. Mr.
24 | Belendiuk?

25 | MR. BELENDIUK: Your Honor, Ohio Radio has been such